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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,041	04/25/2001	Kouichi Matsuda	206348US6	4354
22850	7590	05/24/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			PESIN, BORIS M	
		ART UNIT		PAPER NUMBER
		2174		
DATE MAILED: 05/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/841,041	MATSUDA, KOUICHI
Examiner	Art Unit	
Boris Pesin	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-10, 12 and 13 is/are rejected.  
7)  Claim(s) 11 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . . .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Response to Request for Reconsideration***

1. This communication is responsive to Request for Reconsideration, filed 3/04/2004.
2. Claims 1-13 are pending in this application. Claims 1, 3, 4, 5, 8, 9, 10, 12, and 13 are independent claims. In the Request for Reconsideration none of the claims have been amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 5, 6, and 9 rejected under 35 U.S.C. 102(e) as being anticipated by Brush, II et al. (US 6,366,285).

4. In regards to claim 1, Brush discloses an information processing apparatus for controlling an application object moving autonomously in a shared virtual space in which avatars representing users of other information processing apparatuses are active (i.e.

*"It specifically relates to the interaction of users of the world wide web using proxies or representations of the user in a simulated or virtual world and selection of objects within that world."* Column 1, Line 15). Brush further teaches a distribution examining means for examining distribution of avatars in the shared virtual space (i.e. *"the framework can monitor movement of all objects in the world"* Column 3, Line 65). He further discloses coordinate controlling means for controlling coordinates of said application object in accordance with results of the location, or distribution, of avatars (i.e. *"As AVATAR1 continues to move towards the dog, it passes inner sensor 211 and the dog receives a selection event (252). As a result, the dog enters a "selected" state and begins an interactive relationship with AVATAR1. In this state, the dog executes functions such as wagging its tail and rolling over. At this point USER1 cannot see this interaction as sensor 211 was defined as being six virtual inches from the dog and AVATAR1 is too close for USER1 to witness the dog's antics."* Column 6, Line 38). He further discloses a display controlling means for controlling display of information by the application object controlled in coordinates by the coordinate controlling means (i.e. *"As AVATAR1 continues to move towards the dog, it passes inner sensor 211 and the dog receives a selection event (252). As a result, the dog enters a "selected" state and begins an interactive relationship with AVATAR1. In this state, the dog executes functions such as wagging its tail and rolling over. At this point USER1 cannot see this interaction as sensor 211 was defined as being six virtual inches from the dog and AVATAR1 is too close for USER1 to witness the dog's antics."* Column 6, Line 38).

5. Claim 3 is in the same context as claim 1; it is therefore rejected under similar rationale.

6. Claim 4 is in the same context as claim 1; it is therefore rejected under similar rationale.

7. Claim 5 and 6 are in the same context as claim 1 except for that they talk about attributes instead of distribution. However, distribution of avatars is considered an attribute of the avatars, therefore claim 5 and 6 are rejected under similar rationale as claim 1.

8. Claim 8 is in the same context as claim 5; it is therefore rejected under similar rationale.

9. Claim 9 is in the same context as claim 5; it is therefore rejected under similar rationale.

***Claim Rejections - 35 USC § 103***

10. Claim 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brush, II et al. (US 6,366,285) in view of Roseborough et al. (US 6,141,019).

11. In regard to claim 2, Brush discloses all the limitations of claim 1 but does not disclose the ability for the application object to display advertisements. Rosenborough teaches that "The present synthetic creature . . . is also well suited for application in highly complex applications, such as . . . advertising." (Column 27, Line 31). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Rosenborough's teaching and modify Brush to include the ability for the avatar to

display advertising, with the motivation to try to get people interested in certain products.

12. Claim 7 is in the same context as claim 2; it is therefore rejected under similar rationale.

13. Claim 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brush, II et al. (US 6,366,285) in view of Griffiths et al. (US 6,286,045).

14. In regards to claim 10, Brush discloses, as stated in the rejection for claim 1, an information processing apparatus for controlling an application object moving autonomously in a shared virtual space in which avatars representing users of other information processing apparatus are active. He further discloses an examining means for examining at least either the distribution or attributes of the active avatars in virtual space. He further discloses a coordinate controlling means for controlling coordinates of said application object in accordance with results of the examination. He further discloses a display controlling means for controlling display of information by said application object. Brush lacks the limitation of counting the number of avatars positioned within a predetermined range around said application object. He further lacks the charging means for processing charges for the information controlled in terms of display by the display controlling means in accordance with the result of the counting means. Griffiths teaches, ". . . entities such as advertising agencies, advertising repping firms, and the entities hiring them want to count and know each time a banner is displayed on a user's terminal so that the success or failure of various advertising banners can be determined and so that the correct payment for the display of the

advertising banners can be computed." (Column 13, Line 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Griffiths' teaching and modify Brush to include an apparatus to count the number of viewers of the advertisement, or the number of avatars circa the application object, in order to see how much the advertising agency should get charged, and have a way of charging the advertisers based on the number of views of the advertisement, in order to give a fair marketing plan to the advertisers.

15. Claim 12 is in the same context as claim 10; it is therefore rejected under similar rationale.

16. Claim 13 is in the same context as claim 10; it is therefore rejected under similar rationale.

#### ***Allowable Subject Matter***

17. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claim 11 is allowable because the limitation of using a counting method to weight the number of avatars in order to identify their attributes in combination with the limitations of claim 10 is not taught by prior art.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US006219045B1	Leahy et al
US005736982A	Suzuki et al
US006392667B1	McKinnon et al
US006034684A	Proehl et al
US005948061A	Merriman et al
US006117061A	Popat et al
US006510417B1	Woods et al.

***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (703) 305-8774. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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